

ORDINANCE NO.: 5430

**ORDINANCE TO AMEND CHAPTER 15, ARTICLE I, SECTION 15-26.1, CITY CODE OF ORDINANCES, TO LIMIT THE USE OF DUMPSTERS IN PUBLIC ALLEYS WITHIN THE DOWNTOWN SOLID WASTE COLLECTION DISTRICT.**

**WHEREAS**, the existing City Code of Ordinances, Chapter 15, Article I, Section 15-26.1, commonly known as the downtown dumpster ordinance, regulates the location, condition and appearance of dumpsters serviced by private waste collection services in the downtown area; and

**WHEREAS**, there continues to exist a problem in the downtown area with overflowing garbage, extensive litter surrounding dumpsters, accessibility of dumpster contents to scavengers and vermin, the risk of disease, crime and frequent malignant odors; and

**WHEREAS**, such conditions in the downtown area serve to repel residents, employers, workers, investors, visitors, and tourists alike, and threaten the health, safety, welfare, and economic growth of Memphis; and

**WHEREAS**, while most dumpsters in the downtown area are well maintained and located on the private property of the users of the dumpsters, there are several dumpsters located in the public right-of-way that detract from the public's use and enjoyment of the public right-of-way; and

**WHEREAS**, the City of Memphis, in concurrence with the Downtown Memphis Commission, has determined that it is in the best interest of the citizens of Memphis to reclaim public space for the public and generally prohibit private dumpsters from being located in public alleys and other rights-of way in the downtown area.

**NOW THEREFORE,**

**SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS**, That Chapter 15, Article I, Section 15-26.1 (f) is hereby deleted and replaced with the following:

(f) (1) Dumpsters may not be located in a public right-of-way within the downtown solid waste collection district unless it is demonstrated by the applicant for a location permit that (i) the physical layout of the property makes it impracticable to locate such dumpster on the private property of

the premises using such dumpster and (ii) special circumstances make it impracticable for the solid waste generator to employ alternative solid waste collection means such as a shared compactor or hand collection services.

(2) Specific site designation is required for all dumpsters meeting the exception of subsection (f)(1) and located in a public right-of-way. Site designation shall consist of visual markings on the surface of the public right-of-way identifying the particular place where the dumpster must be placed for as long as the location permit allowing the placement of the dumpster remains valid.

The specific site designation of each dumpster in a public right-of-way must be approved by the design review board, established pursuant to section 7-53 (12-44-7(F)) of this Code, prior to the issuance of a location permit by the director of public works or by his or her designee.

(3) The owner of any dumpster located in a public right-of-way within the downtown solid waste collection district shall pay to the city a location permit fee of \$500 per month per dumpster for the use of the public right-of-way and to fund enforcement of the downtown dumpster ordinance. This fee shall be paid in advance by the first of each calendar month for as long as the dumpster is located in a public right-of-way.

(4) Notwithstanding the foregoing of this subsection (f), any dumpster that as of November 1, 2011, has a valid location permit allowing it to be located in the public right-of-way within the downtown solid waste collection district, and that is in compliance in all other respects with this section and former subsection (f) as it existed as of November 1, 2011, shall not be required to comply with this subsection (f) until November 1, 2013, on which date such preexisting location permit shall expire.

(5) The city and Center City Commission d/b/a Downtown Memphis Commission (DMC) are each authorized to remove, at the owner's expense, any dumpster that is located in a public right-of-way within the downtown solid waste district that does not have a valid location permit and site designation pursuant to subsection (f)(2). If a dumpster has a valid location permit but is not in compliance with this the downtown dumpster ordinance in some other respect, then the city and DMC are each authorized to remove, at the owner's expense, such dumpster after giving the notice and opportunity to cure required by section 15-26.1 (j).

**SECTION 2. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS,** That Chapter 15, Article I, Section 15-26.1 (k) is hereby deleted and replaced with the following:

(k) Any person, residence, firm, corporation or commercial establishment who violates this Section shall be guilty of a misdemeanor fined in an amount not to exceed \$50 per violation. Each day on which a violation of, or failure to comply with, this Section continues shall constitute a separate violation and shall be punishable as such. The city also is entitled to pursue all other remedies to which it is entitled under the authority of applicable law and in accordance with Article II of this chapter.

**SECTION 3. BE IT FURTHER ORDAINED,** That the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases or parts is held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

**SECTION 4. BE IT FURTHER ORDAINED,** That this Ordinance shall take effect from and after the date it shall have been passed by the City Council, signed by the Chairman of the Council, certified and delivered to the Office of the Mayor in writing by the Comptroller, and become effective as otherwise provided by law.

Berlin Boyd, Councilman

Myron Lowery  
Chairman, Memphis City Council

THE FOREGOING ORDINANCE

# 5430 PASSED

1st Reading 11-15-11

2nd Reading 12-6-11

3rd Reading 12-20-11

Approved *Bill Morris*  
Chairman of Council

Date Signed: \_\_\_\_\_

Approved: *[Signature]*  
Mayor, City of Memphis

Date Signed: 01-06-2012

I hereby certify that the foregoing is a true copy, and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.

*Valerie C. Snipes*  
Comptroller